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Message Text

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---------- 044918
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FM SECSTATE WASHDC
TO AMEMBASSY MANILA
INFO USMISSION GENEVA

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E. O. 11652, ADS, N/ A
TAGS: EIND, RP

SUBJECT: PROPOSED REVISION OF PHILIPPINE TRADEMARK LAW

REF: MANILA 4337

1. DEPARTMENT CONCERNED SERIOUS DAMAGE PROPOSED GOP PRESI-
DENTIAL DECREE 49- B WOULD HAVE UPON HOLDERS U. S. TRADE-
MARKS BY ABOLISHING ALL FOREIGN TRADEMARKS AND BRAND NAMES
ON ITEMS MANUFACTURED AND MARKETED IN THE PHILIPPINES.
THE PROPOSED LAW IS CONTRARY TO PARIS CONVENTION FOR THE
PROTECTION OF INDUSTRIAL PROPERTY (LISBON ACT) TO WHICH
PHILIPPINES A SIGNATORY.

2. PROPOSED LAW WOULD BE COMPLETELY IN CONTRADICTION TO
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ARTICLE 6 QUINQUIES PARAGRAPHS A-1 AND B OF LISBON UNION OF PARIS CONVENTION WHICH STATE: (A-1) " EVERY TRADEMARK DULY REGISTERED IN THE CONTRY OF ORIGIN SHALL BE ACCEPTED FOR FILING AND PROTECTED AS IS IN THE OTHER COUNTRIES OF THE UNION SUBJECT TO THE RESERVATIONS INDICATED IN THIS ARTICLE". RESERVATIONS ARE INDICATED IN SECTION B WHICH STATE " TRADEMARKS COVERED BY THIS ARTICLE MAY BE NEITHER DENIED REGISTRATION NOR INVALIDATED EXCEPT IN THE FOLLOWING CASES." EXCEPTIONS ARE (1) INFRINGEMENT OF RIGHTS ACQUIRED BY THIRD PARTIES IN THE COUNTRY WHERE PROTECTION CLAIMED, (2) WHEN THE TRADEMARK IS DEVOID OF ANY DISTINCTIVE CHARACTER ETC. AND (3) WHEN THE PROPOSED TRADEMARK IS CONTRARY TO MORALITY OR PUBLIC ORDER, ETC.

3. US HIGHLY CONCERNED ABOUT LOSS OF PROPERTY RIGHTS AMERICAN FIRMS WOULD SUFFER, AS WELL AS INESTIMABLE LOSS OF GOODWILL WHICH HAS BEEN CULTIVATED THROUGH WORLD-RENOUNED TRADEMARKS. LEADING AMERICAN FIRMS HAVE SPENT YEARS DEVELOPING A REPUTATION FOR QUALITY AND RELIABILITY AND IT IS THIS REPUTATION WHICH THEIR RESPECTIVE TRADEMARKS DENOTE.

4. SUCH A LAW AS THE ONE IN QUESTION WOULD HAVE A DECIDEDLY NEGATIVE IMPACT UPON FUTURE FOREIGN INVESTMENT IN THE PHILIPPINES AND THE TRANSFER OF TECHNOLOGY THERE. OF FURTHER CONCERN IS THE IMPAIRMENT OF U. S. TRADE TO THE PHILIPPINES WHICH COULD RESULT FROM THE IMPLEMENTATION OF THE PROPOSED LAW.

5. ACTION REQUESTED: IF, IN EMBASSY' S VIEW, EXPRESSION SERIOUS CONCERN OF USG IN REGARD TO PROPOSED TRADEMARK LEGISLATION WILL NOT REPEAT NOT BRING UNDUE ATTENTION TO PARTICULARLY NEGATIVE RADIOWEALTH VERSION THEREBY ENHANCING IT, EMBASSY REQUESTED TO UTILIZE THE FOREGOING IN DISCUSSIONS WITH GOP OFFICIALS AS DEEMED APPROPRIATE. PLEASE ADVISE DEPARTMENT WHETHER PROPOSED DECREE WOULD ALSO APPLY TO PRODUCTS MANUFACTURED OUTSIDE THE PHILIPPINES AND MARKETED THERE. EMBASSY REQUESTED KEEP DEPARTMENT AND U. S. MISSION GENEVA INFORMED FURTHER DEVELOPMENTS AND POUCH TO EACH COPY COMPLETE TEXT PROPOSED LIMITED OFFICIAL USE

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LEGISLATION IF READILY AVAILABLE.

6. FOR U. S. MISSION GENEVA: DEPARTMENT POUCHING COPY REFTEL. PLEASE BRING MATTER TO THE ATTENTION OF WIPO FOR THEIR INFORMATION AS A POSSIBLE VIOLATION OF THE PARIS CONVENTION. ROGERS

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